

## REMARKS

Entry of the foregoing and reconsideration of the application identified in caption, pursuant to and consistent with 37 C.F.R. §1.116 and in light of the remarks which follow, are respectfully requested.

By the above amendment, claim 6 has been amended to depend from claim 1 in view of the previous cancellation of claim 4. Entry of the foregoing amendment is proper at least because it is effective to place the application either in condition for allowance or in better form for appeal. See M.P.E.P. §714.12.

In the Official Action, claim 6 stands objected to for depending from a canceled claim. This objection is moot in light of the above amendment in which claim 6 has been amended to depend from claim 1. Accordingly, withdrawal of this objection is respectfully requested.

Claims 1, 2, 6, 7, 10 and 11 stand rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 6,839,110 (*Yamaha et al*). Withdrawal of this rejection is respectfully requested for at least the following reasons.

Independent claim 1 is directed to a retardation film comprising: a transparent support positioned in a plane; and at least one optically anisotropic layer having a first direction with a smallest refractive index and a second direction with a largest refractive index, wherein said at least one optically anisotropic layer is formed of at least one compound exhibiting a liquid crystal phase; said at least one optically anisotropic layer exhibits biaxiality; the first direction is substantially orthogonal to a direction normal to the plane of the transparent support; and the second direction is substantially orthogonal to the direction normal to the plane of the transparent support, wherein the angle between the second direction and the direction normal to the plane of the transparent support is 80 to 100°.

*Yamahara et al* relates to a liquid crystal display device having a display screen with viewing-angle characteristics improved by a phase difference plate combined with a liquid crystal display element (col. 1, lines 9-12). *Yamahara et al* discloses two separate liquid crystal display device embodiments (col. 4, lines 23-43; col. 5, lines 15-36). In the first disclosed embodiment, the phase difference plate has three principal refractive indices  $n_a$ ,  $n_b$  and  $n_c$  being mutually related by the inequality  $n_a < n_b < n_c$ , and the principal refractive index  $n_b$  inclines to the normal to a surface of the phase difference plate (col. 4, lines 39-43). In the second disclosed embodiment, the phase difference plate has three principal refractive indices  $n_a$ ,  $n_b$  and  $n_c$  being such that  $n_a = n_c > n_b$ , the principal refractive indices  $n_a$  and  $n_c$  are parallel to the surface of the phase difference plate, and the principal refractive index  $n_b$  is parallel to the normal to the surface (col. 5, lines 31-36). The first embodiment is further described from column 7, line 28 to column 16, line 30 of *Yamahara et al*, and further description of the second embodiment begins at column 16, line 31. Thus, the first and second embodiments of *Yamahara et al* which are separately set forth and described in the patent, are separate and distinct embodiments.

*Yamahara et al* does not disclose or suggest each feature recited in claim 1. For example, *Yamahara et al* does not disclose or suggest at least one optically anisotropic layer having a first direction with a smallest refractive index and a second direction with a largest refractive index, wherein the first direction is substantially orthogonal to a direction normal to the plane of the transparent support; and the second direction is substantially orthogonal to the direction normal to the plane of the transparent support, wherein the angle between the second direction and the direction normal to the plane of the transparent support is 80 to 100°, as recited in claim 1.

In this regard, the Patent Office has relied on the two embodiments of *Yamahara et al* discussed above, alleging that the first embodiment has an angle between the second direction and the direction normal to the xy plane of the transparent support of 70°, and the second embodiment has an angle between the second direction and the direction normal to the xy plane of the transparent support of 90° (Official Action at page 4). The Patent Office has alleged that "[t]he range of 70 to 90° taught by Yamahara . . . overlaps the claimed range of 80 to 100°" (Official Action at page 4). However, the alleged disclosure of a 70° angle in the first embodiment and a 90° angle in the second embodiment, does not constitute a disclosure of a range of 70° to 90°. Contrary to the Patent Office's assertion, *Yamahara et al* fails to disclose or teach a range of 70° to 90°.

Moreover, neither of the first and second embodiments disclosed by *Yamahara et al* individually corresponds to the claimed optically anisotropic layer. For example, in the first embodiment, the alleged 70° angle between the second direction and the direction normal to the xy plane of the transparent support, is clearly outside the claimed range of 80 to 100° of the angle between the second direction and the direction normal to the plane of the transparent support. In addition, the second embodiment fails to have a first direction with a smallest refractive index and a second direction with a largest refractive index, wherein the first direction is substantially orthogonal to a direction normal to the plane of the transparent support, as recited in claim 1.

Furthermore, the first and second embodiments disclosed by *Yamahara et al* relate to two different liquid crystal display devices having different refractive indices and directions thereof. Absent an improper resort to Applicants' own disclosure, one of ordinary skill in the art would not have been motivated to modify the two separately disclosed and distinct

embodiments of *Yamahara et al*, to arrive at the claimed optically anisotropic layer.

*Yamahara et al* simply has no disclosure or suggestion of making such a modification.

For at least the above reasons, it is apparent that no *prima facie* case of obviousness has been established. Accordingly, withdrawal of the above rejection is respectfully requested.

Claims 8 and 9 stand rejected under 35 U.S.C. §103(a) as being obvious over *Yamahara et al* in view of U.S. Patent No. 6,540,940 (*Negoro et al*). Claim 3 stands rejected under 35 U.S.C. §103(a) as being obvious over *Yamahara et al* in view of U.S. Patent No. 6,712,896 (*Ono et al*). Claim 8 stands rejected under 35 U.S.C. §103(a) as being obvious over *Yamahara et al* in view of an abstract of Japanese Patent Document No. 50103485A (*JP '485*). Withdrawal of the above rejections is respectfully requested for at least the following reasons.

The secondary applied documents fail to cure the above-described deficiencies of *Yamahara et al*. In this regard, the Patent Office has relied on *Negoro et al* for disclosing an alignment film comprising a specific acrylic copolymer or methacrylic copolymer (Official Action at page 7). *Ono et al* has been relied on for disclosing a compound exhibiting a biaxial nematic liquid crystal phase (Official Action at page 8). *JP '485* has been relied on for disclosing an alignment film comprising a specific polymer (Official Action at page 9). However, like *Yamahara et al*, the secondary applied art documents fail to disclose or suggest at least one optically anisotropic layer having a first direction with a smallest refractive index and a second direction with a largest refractive index, wherein the first direction is substantially orthogonal to a direction normal to the plane of the transparent support; and the second direction is substantially orthogonal to the direction normal to the plane of the

transparent support, wherein the angle between the second direction and the direction normal to the plane of the transparent support is 80 to 100°, as recited in claim 1.

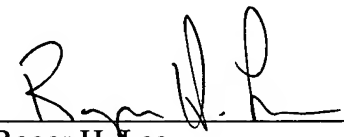
Accordingly, for at least the above reasons, withdrawal of the rejections is respectfully requested.

From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order, and such action is earnestly solicited. If there are any questions concerning this paper or the application in general, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

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